

Remarks

Claims 1-2 and 7 are amended and claim 6 is canceled. Claims 1-5, 7-13 and 16-23 are now pending in this application.

Applicant's representative would like to thank the Examiner for pointing out the issues with Applicant's listing of the claims readable on the elected species. The proper listing of claims readable on the elected species is claims 1-5, 7, 10-13, 16-20 and 22.

The 35 U.S.C. § 102(b) Rejections

The Examiner rejected claims 1-2, 4-6, 10-12, 16-17, 20 and 22 under 35 U.S.C. § 102(b) as being anticipated by Ralph (U.S. Patent No. 3,010,111). The Examiner rejected claims 1, 3-6, 10-12 16-18, 20 and 22 under 35 U.S.C. § 102(b) as being anticipated by Hollander et al. (U.S. Patent No. 3,407,407). The Examiner rejected claims 1-2, 4-6, 10-13, 16-20 and 22 under 35 U.S.C. § 102(b) as being anticipated by Reinhart et al. (U.S. Patent No. 6,128,780). The Examiner rejected claims 1-2, 4-7, 10-13, and 16-20 under 35 U.S.C. § 102(b) as being anticipated by Roessler (U.S. Patent No. 4,649,572). These rejections are respectfully traversed.

The standard for anticipation is one of strict identity, and to anticipate a claim for a patent a single prior art source must contain all its elements. Hybritech Inc. v. Monoclonal Antibodies, Inc., 231 U.S.P.Q.2d 90 (Fed. Cir. 1986); In re Dillon, 16 U.S.P.Q.2d 1987 (Fed. Cir. 1990). Furthermore, there must be no difference between the claimed invention and the disclosure, as viewed by a person of ordinary skill in the art. Scripps Clinic & Res. Found. v. Genentech, Inc., 18 U.S.P.Q.2d 1001 (Fed. Cir. 1991).

As amended, the claims are directed to a clothing shield having a body side and an outward side comprising: a chest section and a pocket section, the pocket section having a bottom fold line and at least one opening member along the bottom fold line, the opening member causing the pocket section to automatically open independently of external influence or control, wherein the opening member is a resilient opening member selected from the group consisting of tape, elastically deformable material, or a spring.

None of Ralph, Hollander, Reinhart or Roessler disclose the subject matter of the amended claims. In particular, no reference discloses a clothing shield with a resilient opening member formed from tape, elastically deformable material or a spring wherein the opening

member causes the pocket section to automatically open independently of external influence or control.

Instead, Ralph discloses a bib which includes “pliantly bendable inert material” (column 2, line 30) whereby “the pocket may be selectively opened or closed by respectively relatively spreading or closing the free terminal portions of the legs” (column 2, lines 64-66). Thus, Ralph does not disclose a bib with a resilient opening member that automatically opens independently of external influence or control. Furthermore, Ralph does not disclose a bib with a resilient opening member formed from tape, elastically deformable material, or a spring. Reinhart et al. and Hollander et al. also do not disclose a bib with a resilient opening member formed from tape, elastically deformable material, or a spring. Finally, Roessler does not disclose a bib with a resilient opening member that automatically opens independently of external influence or control. Instead, Roessler discloses an adhesive member that operates to tab down a multiple V-fold (see Roessler, column 2, lines 47-52). Furthermore, Roessler does not disclose a resilient opening member formed from tape, elastically deformable material, or a spring.

Thus, none of Ralph, Hollander, Reinhart or Roessler anticipate the pending claims. Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejections is therefore respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6905 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date July 28, 2004

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 28 day of July, 2004.

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